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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/025,668

12/18/2001

Stephen Griffin

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EXAMINER

FOREMAN, JONATHAN M

ART UNIT

PAPER NUMBER

3736

MAIL DATE

DELIVERY MODE

11/14/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

10/025,668

Applicant(s)

GRIFFIN ET AL.

Examiner

Jonathan ML Foreman

Art Unit

3736

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 06 August 2007 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: _____.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: _____

See Continuation Sheet.

12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____
13. ☐ Other: _____

JMLF

Continuation of 11. does NOT place the application in condition for allowance because: Applicant's arguments filed 8/6/07 have been fully considered but they are not persuasive. Applicant asserts that Zhou fails to disclose a polymer jacket attached to and surrounding a portion of the core wire such that a substantial portion of the polymer jacket is in contact with the core wire. However, the Examiner disagrees. Substantial is a broad term. As such, the Examiner considers a substantial portion of the polymer jacket being in contact with the core in that the jacket is connected to the core at the proximal end of the jacket and the core contacts the jacket when the core bends (See Figures 4 and 5). Being in contact with the core at both the proximal and distal ends of the jacket is considered to be substantial. Additionally, the more the core bends, the more the contact increases. Applicant also asserts that Zhou fails to disclose the jacket being more stiff than the portion of the core which it surrounds. However, the Examiner disagrees. Zhou teaches that the lateral stiffness of the distal portion of the guidewire changes when the core engages the polymer jacket. As can be seen in figures 4 and 5, the polymeric jacket does not give when the core is bent into contact with the jacket. Thus, the jacket is more stiff than the core. In regard to claim 36, Zhou discloses the polymer jacket attached to and surrounding a portion of the core wire including the tapered portion and the distal end. The claim does not require the entire distal end including the tip to be surrounded by the polymer jacket. In regard to the rejection under 35 U.S.C. 103(a) as being unpatentable over Burmeister et al. in view of Schroepel, the Examiner maintains that a proper prima facie case of obviousness has been established. Burmeister et al. discloses that this jacket can be formed of any polymer (Col. 4, lines 7 - 9). Schroepel discloses a guiding element for positioning within a patient's body (Col. 5, lines 12 - 15) including a polymer jacket being a shape memory polymer more stiff than the portion of the core wire which it surrounds (Col. 5, lines 41 - 57); wherein the shape memory polymer is one from a subset of polymers which are characterized by their responsiveness to heating at or above a glass transition temperature of the shape memory polymer in order to independently transform the shape memory polymer between a first and second shape. Schroepel discloses that any number of different types of tubular devices can include such a jacket (Col. 3, lines 53 - 57). It would have been obvious to one having ordinary skill in the art to modify the polymer jacket as disclosed by Burmeister et al. to include a shape memory polymer as taught by Schroepel so the device can be shaped by a surgeon into a shape and subsequently reshaped if desired to allow for introduction into the patient's anatomy (Col. 5, lines 50 - 60). The use of such a polymer jacket would allow for almost complete recovery to the original strait shape during and after reshaping (Col. 5, lines 58 - 60).

M. J. Kennedy